Supreme Court, U. S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1977

No. 77-138

DAVID P. WEINBERGER, ESQ., pro se,
Petitioner,

versus

FLORIDA DEPARTMENT OF COMMERCE,
Respondent.

DAVID P. WEINBERGER, ESQ., pro se,
Petitioner,

versus

E. J. TROMBETTA, J. W. WHITE, SHELTON KEMP, ANN TODD, G. W. STUBBS, L. Y. PONDER, G. L. FOX and T. J. DOWDELL, JR.,
Respondents.

DAVID P. WEINBERGER, ESQ., pro se,
Petitioner,

versus

UNITED STATES OF AMERICA,
Respondent.

RESPONDENTS, FLORIDA DEPARTMENT OF COMMERCE, E. J. TROMBETTA, J. W. WHITE, SHELTON KEMP, ANN TODD, G. W. STUBBS, L. Y. PONDER, G. L. FOX AND T. J. DOWDELL, JR.'S, BRIEF IN OPPOSITION TO THE PETITION FOR WRIT OF CERTIORARI OF DAVID P. WEINBERGER

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STATEMENT OF THE CASE

Petitioner seeks a review of three orders issued by the United States Court of Appeals, Fifth Circuit, wherein that court separately affirmed, without opinion, the dismissals of each of the petitioner's lawsuits filed in the United States District Court, Southern District of Florida.

STATEMENT OF THE FACTS

On or about January 27, 1975, Petitioner, David P. Weinberger, was hired on a probationary basis as an "Appeals Referee I" by the Florida Department of Commerce.

As a probationary employee of the State of Florida, Mr. Weinberger was subject to termination at any

time. In fact, he was terminated before his six month probationary period expired, and he never became a tenured employee of the State of Florida. Mr. Weinberger was informed that his termination resulted from his inability to adequately and competently fulfill his duties as an Appeals Referee I.

As a result of his dismissal, petitioner brought a variety of actions in the United States District Court, Southern District of Florida.

ARGUMENT

Based upon the record, petitioner's claim regarding the termination of his probationary employment by the State of Florida does not contain substantial questions of federal law to be decided by this court, nor does the per curiam decision of the Fifth Circuit Court of Appeals come in conflict with the law of this court or of the United States Circuit Courts of Appeals. *See, Bishop v. Wood*, 426 U.S. 341, 96 S.Ct. 2074, 48 L.Ed. 2d 684 (1976); *McDowell v. State of Texas*, 465 F.2d 1342 (5th Cir. 1971).

Mr. Weinberger, an attorney, has employed several unconventional methods in which to express his "claims." He has initiated criminal proceedings against the general counsel for the Florida Department of Commerce; he has challenged the integrity of the federal judiciary; he has alluded to some general conspiracy against him by the courts, as well as the law clerks for the Federal District Judges; he has threatened to have counsel removed from the case, and has sought to have counsel "censured" by the courts; and he has sought action through the office of the Governor of Florida, the Florida Attorney General, the Florida Bar Association, and through several administrative agencies.

As a result of the multitude of actions and methods utilized by petitioner in his attacks on the State, the State of Florida has expended considerable amounts in costs and fees that are not justified by claims which are, on their face, clearly frivolous. Mr. Weinberger has been unsuccessful in each and every attempt in that his "claims" have been without merit.

Respondents respectfully suggest that the Petition before this court is also without merit and should be denied.

CONCLUSION

Based upon the foregoing, respondents respectfully request that this court deny and dismiss petitioner's Petition for Writ of Certiorari.

Respectfully submitted,

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BRUCE W. GREER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Respondents' Brief in Opposition to the Petition for Writ of Certiorari of David P. Weinberger was mailed to DAVID P. WEINBERGER, ESQ., Attorney and Petitioner, 5920 S.W. 16th Terrace, West Miami, Florida 33155, on this ____ day of August, 1977.

OF COUNSEL